

COREY NELSEN,	)	Case No. 2:17-cv-02248-APG-NJK
	)	
Plaintiff(s),	)	ORDER
	)	
v.	)	
	)	(Docket Nos. 20, 21)
KONAMI GAMING, INC.,	)	
	)	
Defendant(s).	)	

The Court has broad discretionary power to control discovery. *See, e.g., Little v. City of Seattle*, 863 F.2d 681, 685 (9th Cir. 1988). “The Federal Rules of Civil Procedure do not provide for automatic or blanket stays of discovery when a potentially dispositive motion is pending.” *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 601 (D. Nev. 2011). The party seeking a stay carries the heavy burden of making a strong showing why discovery should be denied. *See, e.g., Turner Broadcasting Sys., Inc. v. Tracinda Corp.*, 175 F.R.D. 554, 556 (D. Nev. 1997). The case law in this District makes clear that requests to

1 stay all discovery may be granted when: (1) the pending motion is potentially dispositive; (2) the  
2 potentially dispositive motion can be decided without additional discovery; and (3) the Court has taken  
3 a “preliminary peek” at the merits of the potentially dispositive motion and finds there is a sufficient  
4 likelihood that the motion will be granted. *See Kor Media Group, LLC v. Green*, 294 F.R.D. 579, 581  
5 (D. Nev. 2013). Courts are more likely to stay discovery when the underlying motion raises critical  
6 preliminary issues, such as jurisdiction. *See Kabo Tools Co. v. Porauto Industries Co.*, 2013 WL  
7 5947138, \*1-2 (D. Nev. Oct. 31, 2013); *see also Kidneigh v. Tournament One Corp.*, 2013 WL  
8 1855764, at \*2 (D. Nev. May 1, 2013) (finding that motion to compel arbitration and to dismiss raises  
9 issues of jurisdiction and venue that should be resolved at “the earliest possible stage in litigation”).

10 Having reviewed these standards, the Court finds a stay of discovery to be appropriate. The  
11 underlying motion to compel arbitration and to dismiss can be decided without discovery, would be  
12 dispositive of court proceedings, and is sufficiently meritorious to justify delaying discovery until it can  
13 be decided by the district judge.<sup>1</sup> Accordingly, the motion to stay discovery is **GRANTED** and, as a  
14 corollary, the motion for protective order from already-propounded discovery requests is also  
15 **GRANTED**. In the event resolution of the motion to compel arbitration and to dismiss does not result  
16 in termination of this case, then the parties shall file a proposed discovery plan within 14 days of the  
17 issuance of the order resolving that motion.

18 IT IS SO ORDERED.

19 DATED: December 20, 2017

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21 \_\_\_\_\_  
22 NANCY J. KOPPE  
23 United States Magistrate Judge  
24  
25

26 <sup>1</sup> Conducting the preliminary peek puts the undersigned in an awkward position because the assigned  
27 district judge who will decide the motion to dismiss may have a different view of its merits. *See Tradebay*,  
28 278 F.R.D. at 603. The undersigned’s “preliminary peek” at the merits of that motion is not intended to  
prejudice its outcome. *See id.* As a result, the undersigned will not provide a lengthy discussion of the  
merits of the pending motion to compel arbitration and to dismiss in this instance.